

No. 12-338

**IN THE UNITED STATES COURT OF APPEALS
FOR THE
SECOND CIRCUIT**

PREDRAG CICVARA,

Plaintiff-Appellant,

v.

**PROCTER & GAMBLE CO.,
DURACELL, LYNNE BURNETT,**

Defendants,

and

**GILLETTE CO., PROCTER &
GAMBLE CO., INC.**

Defendants-Appellees

**DECLARATION OF RICHARD B. LAPP IN SUPPORT OF GILLETTE'S
RESPONSE IN OPPOSITION TO APPELLANT'S "RENEWED" MOTION
TO EXTEND TIME TO FILE BRIEF AND JOINT APPENDIX**

I, Richard B. Lapp, declare pursuant to 28 U.S.C. § 1746(b) as follows:

1. I am a Partner in the Chicago office of Seyfarth Shaw LLP and one of the attorneys of record who represents Defendant-Appellee Gillette Co. ("Gillette") in this appeal. I make this Declaration based on my personal knowledge and I am

competent to testify to the matters set forth herein, if asked to so testify. I provide this Declaration to support Gillette's Response In Opposition To Appellant's "Renewed" Motion To Extend Time To File Brief And Joint Appendix.

2. Appended hereto as Exhibit 1 is a true and correct copy of the letter sent via first-class mail and facsimile on April 19, 2012, from Mr. Richard B. Lapp, counsel for Gillette, to Mr. Igor I. Sikorsky, Jr., counsel for Plaintiff-Appellant Predrag Cicvara ("appellant"), identifying the documents that Gillette would contribute to the parties' joint appendix.

3. Appended hereto as Exhibit 2 is a true and correct copy of the letter sent via first-class mail and facsimile on May 2, 2012, from Mr. Lapp to Mr. Sikorsky, confirming the parties' agreement to file a joint appendix, with the costs thereof to be shared *pro rata*.

4. Appended hereto as Exhibit 3 is a true and correct copy of the letter sent via overnight mail and facsimile on June 27, 2012, from Mr. Nathan T. Kipp, counsel for Gillette, to Mr. Sikorsky, and that accompanied the documents that Gillette would contribute to the parties' joint appendix.

5. To the best of my knowledge, neither Mr. Sikorsky, nor any other representative of appellant, contacted any representative of Gillette before June 27, 2012, to inform them that Gillette had failed to abide by the parties' agreements or otherwise caused any delay in the filing of the opening brief or joint appendix.

I declare under perjury of the laws of the United States of America that the foregoing is true and correct.

DATED this 5th day of July, 2012: By: /s/ Richard B. Lapp

Richard B. Lapp
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EXHIBIT 1



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April 19, 2012

**VIA FIRST CLASS MAIL
AND FAX (860) 675-7104**

Igor I. Sikorsky, Jr., Esq.
P.O. Box 38
Unionville, CT 06085

Re: *Predrag Cicvara v. The Gillette Company, et al.*
U.S.D.C., D. Conn., Civil Action No. 3:09-CV-2054 (JCH)

Dear Attorney Sikorsky,

Please see below for the documents we are adding to the parties' Joint Appendix. We will send you hard copies of the documents.

A. Pleadings concerning removal, including:

- Notice of Removal, together with exhibits thereto;
- First Motion to Remand to State Court and Joinder of Party;
- First Motion to Withdraw First Motion to Remand To State Court, and exhibits thereto;

B. Defendants' Motion to Dismiss Papers, including:

- Motion to Dismiss, including Affidavit of Lynne Burnett and Memorandum in Support of Motion to Dismiss;
- Objection re Motion to Dismiss and Memorandum in Support of Objection to Motion to Dismiss;
- Memorandum in Opposition re Motion to Dismiss
- Reply to response to Motion to Dismiss;

C. Plaintiff's Amended Complaint (Docket Entry No. 14).

D. Answer to Amended Complaint (Docket Entry No. 18).

E. Pleadings concerning Plaintiff's Motion to Compel Production of Documents, including:

- Motion to Compel Production of Documents by Predrag Cicvara, and all attachments thereto (Docket Entry No. 39);
- Memorandum in Opposition to Motion to Compel Production of Documents, and all attachments thereto (Docket Entry No. 45);
- Sealed Document: Exhibits A-E to the Motion to Compel and supporting Memorandum by Predrag Cicvara (Docket Entry No. 46);
- Minute Entry Proceeding Before Judge Janet C. Hall (Docket Entry No. 47);
- Docket Entry Correction (Docket Entry No. 49)

F. Defendants' Summary Judgment Moving Papers, including:

- Defendant's Motion for Summary Judgment (Docket Entry No. 74)
- Defendants' Memorandum of Law in Support of Their Motion for Summary Judgment (Docket Entry No. 74);
- Defendants' Statement of Undisputed Material Facts Pursuant to Local Rule 56.1(a)(1) (Docket Entry No. 74);
- the Declaration of Edward Cerasia II, Esq., together with Exhibits A through D annexed thereto (Docket Entry No. 75);
- the Declaration of Kevin Babis, together with Exhibits A and B annexed thereto (Docket Entry No. 79);
- the Declaration of Peggy Wilczewski, together with Exhibits A through J annexed thereto (Docket Entry No. 77);

G. Plaintiff's Papers in Opposition to Defendants' Motion for Summary Judgment, including:

- First Statement of Material Facts, and exhibits attached thereto (Docket Entry No. 83);
- First Memorandum in Opposition (Docket Entry No. 84);
- First Motion for Summary Judgment: Cross Motion (Docket Entry No. 85);
- First Memorandum Of Support re First Motion for Summary Judgment (Docket Entry No. 86);
- First Statement of Material facts (Docket Entry No. 87);
- First Affidavit Re: Memorandum in Opposition, and exhibits attached thereto (Docket Entry No. 89)

H. Defendants' Papers in Further Support of Their Motion for Summary Judgment and in Opposition to Plaintiff's Cross-Motion for Summary Judgment, including:

- Defendants' Memorandum of Law in Opposition to Plaintiff's Cross-Motion for Summary Judgment (Docket Entry No. 95);
- Defendants' Local Rule 56(a)2 Statement in Response to Plaintiff's Statement of Undisputed Material Facts (Docket Entry No. 96) ;
- Defendants' Reply Memorandum of Law in Further Support of Its Motion For Summary Judgment (Docket Entry No. 94);

I. The Court's Ruling Granting Defendants' Motion for Summary Judgment and Denying Plaintiff's Cross-Motion (Docket Entry No. 97).

J. Judgment entered in favor of Defendants (Docket Entry No. 98).

K. The District Court's Docket Sheet.

L. Transcript of the Deposition of Predrag Cicvara.



Attorney Sikorsky
April 19, 2012
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Please let me know if you have any questions.

Very truly yours,

SEYFARTH SHAW LLP
A handwritten signature in black ink, appearing to read "Richard Lapp".
Richard Lapp

cc: Camille Olson, Esq.

EXHIBIT 2

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May 2, 2012

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Re: *Cicvara v. The Gillette Company*
U.S.D.C., D.Conn., Civil Action No. 3:09-CV-2054 (JCH)

Dear Mr. Sikorsky:

In response to your letter of May 1, 2012, this letter will confirm that we will stand unopposed to a motion to extend time for filing the Joint Appendix until June 1, 2012.

I also confirm that we will honor the standing agreement to pay for the appendix on a prorated basis.

Thank you for your professional courtesy.

Very truly yours,

SEYFARTH SHAW LLP

Richard B. Lapp
Richard B. Lapp

RBL:ls

cc: Camille A. Olson

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EXHIBIT 3



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June 27, 2012

VIA OVERNIGHT MAIL
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Unionville, Connecticut 08085

Re: *Cicvara v. The Gillette Company*
U.S. Court of Appeals for the Second Circuit, No. 12-338

Dear Mr. Sikorsky:

I enclose with this letter the documents that appellee The Gillette Company ("Gillette") will add to the parties' Joint Appendix. As you may recall, Gillette identified the documents it encloses here in its letter dated April 19, 2012. Further, Gillette confirmed in its letter dated May 2, 2012, that the parties will share the cost of the Joint Appendix on a prorated basis.

Please let us know should you have any questions. Thank you for your professional courtesy.

Very Best Regards,

SEYFARTH SHAW LLP

A handwritten signature in black ink, appearing to read "N. Kipp".

Nathan T. Kipp

Enclosures

cc: Ms. Camille A. Olson, Esq. (via e-mail, w/o enclosures)
 Mr. Richard B. Lapp, Esq. (via e-mail, w/o enclosures)

